

## Andrew Jackson to John Quincy Adams, August 26, 1821, from Correspondence of Andrew Jackson. Edited by John Spencer Bassett.

### TO SECRETARY ADAMS.<sup>1</sup>

<sup>1</sup> State Dept., Terr. Pap., Fla. Sept. 24, 1821, Daniel Brent, chief clerk of the State Department, acknowledged the receipt of this letter and enclosures, saying that he had sent the original to the Secretary in Boston and a copy of it to the President in Virginia. The letter was printed in 1822 in a report of the Secretary of State (17 Cong., 1 sess., Ex. Pap. 42), and reprinted therefrom in *Am. St. Pap., Misc.*, II. 801–802. It was also published in the *National Intelligencer* (Washington), Sept. 4, 1828, and in various other newspapers.

Pensacola, August 26, 1821.

*Sir*, The enclosed documents will advise you of an occurrence, painful to me, but unavoidably necessary, and dictated by the imperious rules of justice, to save the unprotected orphan from being ruined by the most cruel oppression, by the most corrupt, and wicked combination, I ever investigated.<sup>2</sup>

<sup>2</sup> Dec. 5, 1821, and Jan. 28, 1822, President Monroe sent to Congress large collections of documents relating to Jackson's administration of the office of governor of Florida. The first is in *Am. St. Pap., For. Rel.*, IV. 740–808, and the second *ibid., Misc.*, II. 799–913. So complete are the collections that the editor has not thought it necessary to include in this work several papers which, otherwise, he should have placed before the reader. The Florida incident is treated in Bassett's *Jackson* (I. 298–317) and in Parton's *Jackson* (II. 614–639). Parton's account, however, loses value to some extent through his tendency to treat the incident in a humorous manner.

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In the reestablishment, and resuscitation of the Judiciary in West Florida, and from the various distribution of the Judicial functions, I had indulged the hope, that no cases would occur to compel me to exercise the Judicial powers with which I was invested, by my commission from the President.

I was well aware that much corruption existed in Spanish Judicial proceedings, but still my mind was not prepared to expect such a scene of combined wickedness, and corruption, as has been brought to light by this investigation, and which the enclosed extracts taken from the original documents or records, and certified by the Alcade of Pensacola, exhibit. They relate to the succession, or estate, of Nicholas Maria Vidal, who died in this place about the year 1807, having made his will, leaving persons in this Country his heirs, but who from that time to this day, have never received one cent of their inheritance. It was this case which gave rise to the proceedings alluded to, marked no. 1, and to which I beg leave to refer you.

The Document no. 2, is an abstract of the whole proceedings instituted by the heirs for the recovery of the testamentary papers, and other documents relative to the estate of their deceased Father, and for the recovery of which, I was compelled to exercise my Judicial functions and to take the energetic measures I did, and which were well warranted by the laws of Spain, as well as by those of the United States; and which could alone have preserved to the heirs of Vidal, the evidence of their right of property. Without these records they would have been unable to compel the House of Inerarity and Forbes, the depository and debtor of the estate, to do them right and justice. This act of justice was due to them, by every law human and divine. By the second article of the late Treaty with Spain, this right was expressly guaranteed, and under that Article Col: Callava as the Commissioner of Spain, was bound to deliver those Documents as the evidence of the right of property here, at the time of his surrendering the Country, and with other papers which he did deliver.<sup>3</sup>

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3 From the minutes of Callava's examination, in Pensacola, Aug. 22, 1821, in the presence of Governor Jackson, is taken the following:

“Question 1. Were or were not the papers mentioned in a schedule handed to you by H. M. Brackenridge, alcalde of the city of Pensacola, delivered by Domingo Sousa at your house this day to Antoine Fullarat, your major domo; and, if so, at what time of the day?

“Answer. [Translated.] I say that I solemnly protest against the act, which at ten, in the middle of the night, took me from my bed, where I was sick, although I consider myself a Spanish commissioner, appointed by the Spanish Government, under the treaty recently concluded between the said Government and that of the United States, for the cession of the Floridas, which commission has been conf—. [Here the governor stopped Colonel Callava, and directed the following question to be put to him:]

“Did or did not Domingo Sousa deliver at your house this day the papers above mentioned; and, if so, where are those papers now?—and answer this directly.

“Answer. That he declines answering, except in the manner he considers proper—in his own language, and with his own hand.

“The question being repeated, he answered that he was here as a commissioner, and could not answer in any other capacity; on which he was informed by the governor that he could not view him as a commissioner, or in any other light than as a private individual charged with refusing to surrender papers which belong to the public archives of this province, and with being connected with individuals charged with being about to secrete papers and to carry them out of the country, by which the inhabitants thereof would be deprived of their evidence of property, and which, under the second article of the treaty with Spain, ought to have been delivered with the other property placed in the charge of the alcalde for safe-keeping. The question being again repeated, he refused to answer,

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except in the manner before stated" ( *Am. St. Pap., For. Rel.*, IV. 783). The brackets are in the printed minutes.

It is clearly to be perceived that the influence of John Inerarity, prevented all the decrees of Callava, as well as of his predecessors, in favor of the heirs of Vadal, from being executed; thus exhibiting a Judicial mockery without example. And by the influence and arts of this man (and as some have it, by his gold) the final attempt was made, secretly, to carry away the papers relating to this large estate, by this present shielding Inerarity from all responsibility to the heirs, and enabling him to continue in undisturbed possession of property to a very large amount, so unjustly, corruptly, and fraud[ul]ently obtained.

I have reason to believe that Callava would not have presumed to have stood out in contempt of my order, but that he would have delivered the papers when first demanded, nay that he would have directed Domingo Sousa to have done so, had he not been urged to this obstinate resistance, by some of our American Citizens, under the impression that I would not, nay, durst not, commit him for the contempt. This added to the influence which Inerarity had over him, who was continually by his side, and I am convinced urging him to with hold the papers, from a belief that their production would unfold the vilany practised, make him responsible to the heirs, and destroy both his character and that of Callava. It was no doubt this conviction, which caused him to make the involuntary exclamation, (when my order was read to Col. Callava by Col: Butler, and when told on his refusal to deliver the papers, proven to be in his house, that he must appear before me,) that "the die was cast"—yes, he said truly the die was cast, for he must have clearly seen, that the arts, the influence, the wealth, the power, of no individual, not even of Inerarity himself, could any longer obstruct, the pure channels of justice!

I have to regret that the conduct of some of our Officers on this occasion, was highly reprehensible, and that in particular of Judge Fromentin, unaccountable, indecorous, and unjustifiable. I have said indecorous, because from an interview with him on the subject of his jurisdiction and powers, under his commission, and instructions, it was

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well understood, that the former only extended over the revenue laws, and the acts of Congress prohibiting the introduction of slaves. My Commissions and instructions, had been shewn him, and he had acknowledged all other Judicial powers to reside in the A[l]cade, and in other Judicial jurisdiction under me, as well as in those with which I was invested by the President. After this clear understanding between us, and his being instructed to aid me in the administration of the Government, to attempt thus to oppose me, without even giving me notice, or making enquiry into the nature and cause of my proceedings, to issue what he calls a writ of *Harbeas Corpus*, without pe[tition], or affidavit, or oath of any kind, and that on the application of Inerarity and of some Spanish Officers, the former, interested in the destruction of these papers, was such an act of indecorum and contempt of my authority, displayed such ignorance of his duty, to say the least of it, as caused me to notify him to appear before me, and shew cause why he had attempted this improper interference with me, in the exercise of my Judicial powers. The time when the interference was made, renders his conduct still more reprehensible—he did know that opposition by force, had been threatened by Callava and his Spanish Officers, to my authority, aided, as they had a right to believe, by some of my Officers. This as you will discover, I put down, as it ought to have been, and the lecture I gave the Judge when he came before me, will, I trust, for the future, cause him to obey the spirit of his commission, aid in the execution of the laws, and administration of the Government, instead of attempting to oppose me, under Spanish influence.<sup>4</sup>

<sup>4</sup> Among the documents relating to this affair sent by Jackson to the Secretary of State and published in *Am. St. Pap., Misc.*, II. 799–913, there is, at page 810, the following statement, signed by Judge Fromentin on Aug. 24, 1821, in Jackson's office, in the presence of George Walton, secretary of West Florida: "Judge Fromentin, in obedience to the order of his excellency, appears, and acknowledges that he granted the writ of *habeas corpus* without the affidavit of any person, and that no affidavit was made before him; and that it was granted upon the *verbal* application of a number of individuals who made the application (named Le Rud., Innerarity, Brosnahan, and Father Coleman); and, upon being

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asked to whom he delivered the said writ of *habeas corpus* to be served upon the officer who had in custody Colonel Callava, he replied that he delivered it to one of the persons who made application for it, but to which he does not know.”

I enclose you a copy of the paper he calls a writ of *Habeas Corpus* ; if the view of this paper does not furnish sufficient evidence of his incapacity for the Office of a Judge, if it be not sufficient to strike him from the roll of Judges, I must say, that ignorance of law, is no objection against any one's holding a Judicial station, however high and important. Judge Fromentine was represented to me, to be no lawyer, but favorably spoken of as a man of literature. But I could not have formed such an idea of his want of legal knowledge as this transaction displays; I am therefore more inclined to ascribe his conduct to weakness, than to any other cause.

You will perceive from the whole of the proceedings, that energetic measures were unavoidable, that my authority was attempted to be set at naught, and my orders and decrees treated with contempt. I could not view Col: Callava in any other light, than that of a private individual, charged with violating the rights of others, and setting my authority at defiance. I could not distinguish him, or his situation, from that of Domingo Sousa, or of Fullarat, his steward. These, by Callava's orders, had treated my authority with contempt, and Callava had not the magnanimity to relieve them by acknowledging the papers to be in his possession, even after positive proof was had of the fact, that they were so. I did believe, and ever will believe, that just laws can make no distinction of privilege between the rich and the poor, and that when men of high standing attempt to trample upon the rights of the weak, they are the fittest objects for example and punishment. In general, the great can protect themselves, but the poor and humble, require the arm and the shield of the law.

Col: Callava's powers having ceased here with the surrender of the Country, it was only a display, and so considered by me, of pompous arrogance and ignorance, in his claiming the privileges of diplomacy, which in fact he never possessed; and his powers

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having ceased, his Commission accomplished, the pretension which he set up, was an insult to the weakest understanding. There are other, and many complaints by the Spanish subjects, who remain here, of documents relating to private property, being missing from the Alcades Office. If proof is had where they are, demands will be made, and I hope the precedent set, will prevent the necessity of again exercising these painful measures to coerce their production. But should such occur, I shall not shrink from my duty, however painful it may be to my feelings to exercise such authority for the security of those individuals who, under the Treaty, look to our Government for the protection of their rights. . . .

P. S. I send you a newspaper containing an Ordinance “for the better regulation of the Harbour of Pensacola” and another “regulating the Fees of Justices of the peace”, both of which have been passed since my last communication and from my ill health and great press of business, I send you thro' the paper enclosed.<sup>5</sup>

<sup>5</sup> The *Floridian*, it must have been, of which the first number was published at Pensacola eight days before, Aug. 18, 1821. It was the second newspaper issued in Florida, the first having been the *Florida Gazette*, publication of which began, at St. Augustine, a month before, July 14. J. O. Knauss, *Territorial Florida Journalism* (Florida State Historical Society, 1926), pp. 17, 20.